

Application Number 10/693,008
Amendment in Response to Office Action mailed February 5, 2007

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REMARKS

This Amendment is responsive to the final Office Action dated February 5, 2007.

Applicant has amended claims 6, 17, 27, and 28, canceled claims 1-5, 7-16, 18-26, 30-35, and 37, and added claims 44-65. Claims 6, 17, 27-29, 36, and 38-65 are pending.

Examiner Interview

On March 19, 2007, Applicant's attorney-of-record, Jessica H. Kwak, conducted a telephonic interview with Examiner Kahelin regarding the addition of dependent claims to the present application. In particular, Applicant's representative proposed adding new claims that depend from the allowed claims and the claims including allowable subject matter. Pursuant to the interview, Applicant has added claims 44-53, which depend from allowed claim 6, claims 54-62, which depend from allowable claim 17, and claims 63-65, which depend from allowed claim 27.

Allowable Subject Matter

The final Office Action indicated that claims 6, 27 and 38-43 are allowed. In the present Amendment, Applicant has amended claim 6 to clarify that the method comprises disabling the display in the programmer during activation of the telemetry circuitry to reduce electrical interference when the telemetry circuitry performs telemetry via the internal antenna. This amendment to claim 6 is consistent with the other allowed claims, such as claim 38, which also specify that the display is disabled when the telemetry circuitry performs telemetry via the internal antenna.

Applicant has also amended allowed claim 27 to remove repetitive subject matter. In particular, claim 27 as previously presented recited both "disabling the display in the programmer during communication via the telemetry circuitry to reduce electrical interference" and "disabling the display when the telemetry circuitry performs telemetry via the internal antenna." With the present Amendment, Applicant has restated in a concise manner that the method comprises "disabling the display in the programmer during communication via the telemetry circuitry to reduce electrical interference when the telemetry circuitry performs telemetry via the internal antenna." This amendment in no way broaden the scope of claim 27 because Applicant is merely

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restating the allowable subject matter that was previously presented. In addition, claim 27 has been amended to correct a minor typographical error. In particular, the reference to a "telemetry circuit" has been amended to recite "telemetry circuitry."

The Office Action objected to claim 31 as being dependent upon a rejected base claim, but indicated claim 31 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. As previously presented, claim 31 depended from claim 28. In this Amendment, Applicant has amended claim 28 to include the allowable subject matter of claim 31. Just as with claim 27, claim 28 has been amended to clarify that the control circuitry disables the display during the telemetry to reduce electrical interference when the telemetry circuitry performs telemetry via the internal antenna. This amendment in no way broaden the scope of claim 28 because Applicant is merely restating the allowable subject matter that was previously presented. Claim 28 and the claims dependent therefrom are in condition for allowance.

The Office Action also indicated that claim 17 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. § 112, second paragraph. As discussed below, Applicant has amended claim 17 to address the rejection under 35 U.S.C. § 112, second paragraph. Consequently, claim 17 and the claims dependent therefrom are also in condition for allowance.

Claim Rejection Under 35 U.S.C. § 112

In the Final Office Action, the Examiner rejected claim 17 under 35 U.S.C. § 112, second paragraph, for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. In particular, the Office Action stated that the reference to "the antenna" in line 4 of the previously presented claim 17 was vague because it is unclear as to which antenna "the antenna" refers. With the present Amendment, Applicant has amended claim 17 to clarify that "the antenna" includes one of the internal antenna and the external antenna. The amendments to claim 17 in no way broaden the scope of claim 17 because claim 17 as previously presented clarified that the telemetry circuitry performs telemetry via one of the internal antenna or the external antenna. Similar amendments have been made to claim 28.

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Applicant has also amended claim 17 to clarify that the control circuitry disables the display in the programmer during the telemetry circuitry to reduce electrical interference when the telemetry circuitry performs telemetry via the internal antenna. This amendment to claim 17 is consistent with the other allowed claims, such as claim 38, which also specify that the display is disabled when the telemetry circuitry performs telemetry via the internal antenna.

Claim Rejection Under 35 U.S.C. § 103

In the Final Office Action, claims 1-5, 8, 12-16, 22-26, 28-30, and 32-37 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Lebel et al. (US 2003/0065308) in view of Mann et al. (US 5,833,623). Claims 1, 2, 4, 12, 13, 15, 22-24, 28 and 32 were also rejected under 35 U.S.C. § 103(a) as being unpatentable over Mann et al. in view of Lebel et al. Claims 7, 9, 11 and 18-21 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Lebel et al. in view of Mann et al. (or Mann et al. in view of Lebel et al.), as applied to claims 1 and 12, and further in view of Stanton et al. (US 6,249,703). Claim 10 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Lebel et al. in view of Mann et al. and Stanton et al. (or Mann et al. in view of Lebel et al. and Stanton et al.) as applied to claim 9 above, and further in view of Stein et al. (US 2004/0230247).

In the interest of expediting prosecution of the present application, Applicant has amended independent claim 28 to include the allowable subject matter of claim 31, and deleted claims 2-5, 7-16, 18-26, 30-35, and 37. However, Applicant in no way acquiesces to or agrees with the rejection of claims presented in the Office Action. On the contrary, Applicant traverses the rejections and reserves the right to resubmit canceled and/or additional claims in a subsequent continuation application.

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Rejection for Obviousness-type Double Patenting:

In the final Office Action, claims 1-3, 8, 12-14, 22-24, 28 and 32-37 were provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 22 and 32 of copending Application No. 10/693,835. Claims 4, 5, 15, 16, 25, 26, 29 and 30 were also provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 22 and 32 of copending Application No. 10/693,835. Claims 7, 9-11 and 18-21 were also provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 26 of copending Application No. 10/693,835 in view of Stanton.

A Terminal Disclaimer accompanies this Amendment. The disclaimer is made to expedite issuance and is not intended as an admission that any claim of the present application is the same or an obvious variant of those of U.S. Patent Application No. 10/693,835. Rather, Applicant maintains the traversal of the rejection of claims 1-3, 8, 12-14, 22-24, 28 and 32-37 based on U.S. Patent Application No. 10/693,835. This disclaimer obviates the obviousness-type double patenting rejection and places claims 1-3, 8, 12-14, 22-24, 28 and 32-37 in condition for allowance.

New Claims

As noted above in the Summary of Examiner Interview, Applicant has added claims 44-65 to the pending application. Claims 44-65 each depend from either an allowed or allowable independent claim. Accordingly, new claims 44-65 are in condition for allowance. No new matter has been added by the new claims.

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CONCLUSION

All claims in this application are in condition for allowance. Applicant respectfully requests reconsideration and prompt allowance of all pending claims. Please charge any additional fees or credit any overpayment to deposit account number 50-1778. The Examiner is invited to telephone the below-signed attorney to discuss this application.

Date:

By:

April 5, 2007
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